

Ineffectiveness of The Legislative Function By The Regional Representative Council (Case Study Of Kebumen Regency)

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Abstract

Regional Regulations are an instrument for administering regional government formed by the Regional Legislative Institutions and the Regional Government. Regional Legislative Institutions has the right to submit the Initiative Regional Regulation Draft to the head of Regional Legislative Institutions consists of explanation and Principal Number. The Draft was given Bapemperda to review. The results are reported to the head of Regional Legislative Institutions to be presented at the Plenary Meeting. The Regent and Regional Legislative Institutions discussing Regional Regulations. The formation of legal products is mandate of Act Numb. 12 of 2011 jo. 13 of 2022 about the Legislation Development and Numb. 80 of 2015 jo. Numb. 120 of 2018 about the Regional Legislation. The issues that will be discussed are the process of submitting Initiative Regional Regulation Draft and the problem. The research method is qualitative using a normative juridical and empirical juridical approach. The research location was carried out within the Kebumen Regional Legislative Institutions and Kebumen Regency Legal Section. The results of the research show that there is a need for Regulation that specifically about Initiative Regional Regulation Draft.

Keywords: Legislation, Regulation Program, Initiative Regulation.

Abstrak

Peraturan Daerah (Perda) merupakan instrumen penyelenggaraan pemerintahan daerah yang dibentuk oleh Dewan Perwakilan Rakyat Daerah (DPRD) dan Pemerintah Daerah (Pemda). Setiap Anggota DPRD mempunyai hak untuk mengajukan usulan Raperda Inisiatif, yang disampaikan kepada Pimpinan DPRD dalam bentuk Rancangan Perda disertai penjelasan secara tertulis dan diberikan Nomor Pokok oleh Sekretariat DPRD. Usulan tersebut disampaikan kepada Bapemperda oleh Pimpinan DPRD untuk dilakukan pengkajian. Hasil pengkajian Bapemperda dilaporkan kepada Pimpinan DPRD untuk disampaikan dalam Rapat Paripurna DPRD. Bupati dan DPRD bekerjasama membentuk Perda. Pembentukan produk hukum daerah diatur dalam UU No. 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan yang telah diubah beberapa kali terakhir dengan UU No. 13 Tahun 2022 dan Permendagri No. 80 Tahun 2015 tentang Pembentukan Produk Hukum Daerah sebagaimana telah diubah dengan Permendagri No. 120 Tahun 2018. Permasalahan yang akan dibahas adalah proses pengajuan usulan Raperda Inisiatif DPRD dan kendala dalam mengajukan usulan

Raperda Inisiatif DPRD. Metode penelitian yaitu kualitatif dengan menggunakan pendekatan yuridis normatif dan yuridis empiris. Lokasi penelitian di lingkungan DPRD Kabupaten Kebumen dan Bagian Hukum Sekretariat Daerah Kabupaten Kebumen. Hasil penelitian menunjukkan bahwa perlu adanya Peraturan DPRD yang khusus mengatur tentang Usulan Prakarsa Raperda Inisiatif DPRD.

Kata Kunci: Produk Hukum, Propemperda, Raperda Inisiatif.

Introduction

Article 1 Paragraph (1) of the 1945 Constitution states that "Indonesia is a country of law".¹ As a country of law, Indonesia cannot be separated from the politics of law in the formation of laws and regulations, including regions in forming regional legal products. According to M. Mahfud MD, legal politics is the official policy of the state regarding the laws that will be enforced or will not be enforced (making new rules or revoking old rules) to achieve the goals of the state².

Article 18 Paragraph (6) of the 1945 Constitution states that "Regional Governments have the right to establish Regional Regulations and other regulations to carry out autonomy and assistance duties".³ The local government and the DPRD are the organizers of local government affairs⁴. The organizers of local government affairs in this case are the Regent and the Kebumen Regency DPRD.

Kebumen Regency was formed based on Law No. 13 of 1950 concerning the Establishment of Regency Areas within the Province of Central Java (BN No. 42), which consists of 26 sub-districts, 449 villages and 11 sub-districts.

Article 18 Paragraph (3) of the 1945 Constitution states that "Provincial governments, districts, and cities have DPRD whose members are elected through general elections".⁵ The Kebumen Regency DPRD for the 2019-2024 period consists of 50 (*fifty*) members, consisting of 4 (*four*) Commissions which are divided into 4 areas, including Commission A in charge of Legal and Government

¹ Article 1 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

² M. Mahfud MD, 2001, *Politics and Law in Indonesia Print II*, Jakarta: LP3ES, p. 2.

³ Article 18 Paragraph 6 of the 1945 Constitution of the Republic of Indonesia.

⁴ Jimly Asshiddiqie, 2010, *Development and Consolidation of State Institutions after Reform*, Jakarta: Sinar Grafika, p. 239.

⁵ Article 18 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

affairs, Commission B in charge of economic affairs and people's welfare, Commission C in charge of regional finance and revenue affairs, and Commission D in charge of planning and development of development infrastructure. In addition, the Kebumen Regency DPRD consists of 6 (*six*) factions, namely the PDIP faction with 11 seats, the PKB faction with 9 seats, the Gerindra faction which is a combination of the Gerindra Party, PAN, the Democratic Party and PKS with a total of 15 seats, the Golkar faction with 6 seats, the PPP faction with 4 seats and the Nasdem faction with 4 seats.

The Executive has a close cooperative relationship with the Legislature. Propemperda is a form of partnership cooperation between the DPRD and the Regent in developing the region based on "*CHEKS and BALANCES SYSTEMS*" (Sihombing, 2016). Article 4 Government Regulation No. 12 of 2018 stated that "The program for the formation of the Regional Regulation is determined based on an agreement between the DPRD and the Regional Head".⁶ The Regent and the DPRD collaborate in the formation of regional legal products. Regional Law Products can be in the form of Regulations and Decisions. Regulations include Regional Regulations or other names, Perkada, KDH Joint Regulations and DPRD Regulations, while Decisions include KDH Decisions, DPRD Decisions, DPRD Leadership Decisions and DPRD Honorary Board Decisions.

The Regent leads the Regional Government to implement the APBD and other regulations. In addition, the DPRD also conducts supervision. to the Regent in implementing the APBD and other Regional Regulations (Zarkasi, 2004).

The DPRD has the duty and authority to form a Regional Regulation with the Regent. Raperda can come from the DPRD or Regent. Raperda originating from the DPRD or Regent must be accompanied by an explanation or information and/or an academic manuscript (NA). Each Member of the DPRD has the right to submit a proposal for the Initiative Raperda, which is submitted to the Leadership of the DPRD in the form of a Raperda accompanied by a written explanation and given a

⁶ Article 4 of Government Regulation Number 12 of 2018 concerning Guidelines for the Preparation of Rules of Conduct for Provincial, Regency, and City Regional People's Representative Councils (LN No. 59, TLN No. 6197).

Identification Number by the DPRD Secretariat. The proposal was submitted to Bapemperda by the Leadership of the DPRD for review. The results of the Bapemperda study are reported to the Leadership of the DPRD to be presented in the Plenary Meeting.

Raperda is submitted based on Propemperda or outside Propemperda. In certain circumstances, the DPRD or the Regent can submit a Raperda outside the Propemperda in accordance with the provisions of the Laws and Regulations. The Regional Regulation is determined based on an agreement between the DPRD and the Regent for a period of 1 (*one*) year based on the priority scale for the formation of the Regional Regulation and must be consulted with the Governor through the Legal Bureau.

The existence of a provision that allows the submission of Raperda outside the Propemperda opens up space for the DPRD and the Regent to submit a new Raperda outside of what has been agreed upon (Salehuddin, 2020). The problem that will be discussed is how the process of submitting proposals for the DPRD Initiative Raperda and what are the obstacles for the Kebumen Regency DPRD in submitting the proposal for the Initiative Raperda.

RESEARCH METHODS

The research method used is qualitative with a normative juridical and empirical juridical approach. This approach has a prescriptive characteristic, which provides an assessment of what is right or wrong, appropriate or inappropriate. The way of drawing conclusions generally uses a deductive way of thinking, namely a norm system as the general postulates, then faced with a specific case, then a conclusion or conclusion is made.⁷

The location of the research is within the Kebumen Regency DPRD and the Legal Section of the Kebumen Regency Regional Secretariat. The data used in this study are sourced from primary data and secondary data. Primary data was obtained from the results of targeted interviews from informants. The informants of this

⁷ Irwansyah, 2022, *Legal Research on the Choice of Methods & Practice of Article Writing*, Yogyakarta: Mirra Buana Media, p. 21.

research are the Chairman of the Bapemperda of the Kebumen Regency DPRD, the Functional Officer of the Legislative Drafting Officer and the Head of the Legal Section of the Kebumen Regency Regional Secretariat. Secondary data in this study is data obtained from literature studies in the form of primary and secondary legal materials.

Primary legal materials are materials sourced from laws and regulations. Secondary legal materials, namely legal materials that are relevant to primary legal materials and can provide explanations for primary legal materials such as legal theories, legal documents or literature, opinions or concepts of legal experts, including legislative theories used to describe the concept of the Formation of Regional Regulations; Tertiary Legal Materials are other materials as supporting data such as dictionaries, internet media and so on. Data collection is carried out by means of literature studies and field studies. After the data is collected through data collection, then a re-examination is held to avoid errors and shortcomings. This activity was carried out to obtain valid data as expected. Data processing through the data identification stage, the data obtained is then adjusted to the subject matter, data classification, and compilation of data according to a predetermined order so that it is easy to analyze to obtain a systematic arrangement of data. Data analysis uses a descriptive method with a qualitative approach. Descriptive methods are used to be able to describe data about people, conditions, or other symptoms related to this study.

Results and Discussion

Submission Process of Proposed Raperda Initiative of the DPRD

Article 5 Paragraph (2) of Government Regulation No. 12 of 2018 states that "Raperda originating from the DPRD or Regional Head is accompanied by an explanation or information and/or an academic manuscript".⁸ All Raperda proposals

⁸ Article 5 Paragraph (2) of Government Regulation Number 12 of 2018 concerning Guidelines for the Preparation of Rules of Conduct for Provincial, Regency, and City Regional People's Representative Councils (LN No. 59, TLN No. 6197).

are submitted to the Chairman of the DPRD in writing along with their completeness to be subsequently disposed to the Bapemperda for review.

Article 6 Paragraph (1) of Government Regulation No. 12 of 2018 states that "Raperda originating from the DPRD can be submitted by Members of the DPRD, commissions, joint commissions, or Bapemperda coordinated by Bapemperda".⁹ The regulation provides a legal basis and authority to DPRD members to use their initiative rights/DPRD initiatives in the process of forming a Regional Regulation.¹⁰ The Initiative Raperda proposal is signed by the proposers and submitted in writing to the Chairman of the DPRD to get a disposition.

Article 247 of DPRD Regulation No. 1 of 2020 states that "In order to carry out the duties and authorities of the DPRD, an expert group or expert team may be formed".¹¹ In the preparation of the Initiative Raperda, there is an element of participation from various parties. The element of participation in question is the participation of parties outside the DPRD and the Regional Government in drafting and forming the Regional Regulation or Regional Regulation¹². Members of the DPRD can include an Expert Team from Academics to prepare the draft NA and Raperda, the application for the procurement of the Expert Team is addressed to the Chairman of the DPRD and followed up by the Secretary of the DPRD based on the disposition or approval of the Chairman of the DPRD.

Article 1 of DPRD Regulation No. 1 of 2020 states that "The Regional Regulation Formation Program, hereinafter referred to as Propemperda, is a planning instrument that contains a program for the formation of the Kebumen Regency Regional Regulation which is prepared in a planned, integrated, and

⁹ Article 6 Paragraph (1) of Government Regulation Number 12 of 2018 concerning Guidelines for the Preparation of Rules of Conduct for Provincial, Regency, and City Regional People's Representative Councils (LN No. 59, TLN No. 6197).

¹⁰ Janpatar Simamora, 2015, *Legal Drafting: Theory and Practice of Legislation Formation*, Medan: LAPiK, p. 88.

¹¹ Article 247 Regulation of the Regional House of Representatives of Kebumen Regency Number 1 of 2020 dated April 14, 2020 concerning the Rules of Conduct of the Regional House of Representatives of Kebumen Regency.

¹² Bagir Manan, 2001, *Welcoming the Dawn of Regional Autonomy*, Yogyakarta: UII Center for Legal Studies, p. 77.

systematic manner".¹³ The Regional Regulation is determined based on an agreement between the DPRD and the Regent for a period of 1 (*one*) year based on the priority scale and must be consulted with the Governor through the Legal Bureau. Consultation with the Legal Bureau was carried out after the agreement of the Chairman of Bapemperda and the Head of the Legal Section of the Regional Secretariat.

Article 6 Paragraph (2) of DPRD Regulation No. 4 of 2020 states that "The proposal of the Raperda is proposed by at least 5 people".¹⁴ The proposal for the Initiative Raperda is submitted in writing to the Chairman of the DPRD and signed by the proposers.

Article 58 of Law No. 13 of 2022 states that "The harmonization, rounding and consolidation of the conception of the Provincial Raperda is coordinated by the minister or head of the institution in charge of government affairs in the field of Legislation Formation and is carried out by the vertical agency of the ministry or institution in charge of government affairs in the field of Legislation Formation".¹⁵ This applies *mutatis mutandis* to Regencies/Cities, the harmonization process is required for all Raperda, both Initiative and Executive.

Based on some of the things mentioned above, it can be concluded that the entire process of submitting proposals for the DPRD Initiative Raperda is accommodated and implemented by Bapemperda with the following stages:

- 1) Bapemperda collects proposals for Raperda Initiative from each DPRD Fittings
- 2) Submission of the proposal for the Initiative Raperda in writing by the proposer to the Leadership of the DPRD, accompanied by an explanation or statement and/or NA and a list of names and signatures of the proposer.

¹³ Article 1 Regulation of the Regional House of Representatives of Kebumen Regency Number 1 of 2020 dated April 14, 2020 concerning the Rules of Conduct of the Regional House of Representatives of Kebumen Regency.

¹⁴ Article 6 Paragraph (2) of the Regulation of the Regional House of Representatives of Kebumen Regency Number 4 of 2020 concerning Procedures for the Preparation of Regional Regulation Formation Programs within the Regional House of Representatives.

¹⁵ Article 58 of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Establishment of Laws and Regulations (LN No. 143, TLN No. 6801).

- 3) The DPRD leadership submitted the proposal of the Initiative Raperda to Bapemperda for review.
- 4) The Bapemperda meeting discussed the proposal for the Initiative Raperda, then harmonized, rounded, and strengthened the conception within Bapemperda of the Raperda submitted by members, commissions, or combined commissions.
- 5) Bapemperda's report to the DPRD Leader on the results of the study of the NA and Raperda.
- 6) NA and Raperda that are worthy of being used as Initiative Raperda are submitted to the Leadership of the DPRD in the form of a list of proposals for the DPRD Initiative Raperda to be subsequently met with the Executive in the Repropemperda Discussion Working Meeting.
- 7) The Repropemperda Discussion Working Meeting discussed the proposal of the Raperda from the Executive and Initiative of the DPRD. Each proposer from both the Executive and the Legislature explained the proposed NA and Raperda, and could be assisted by experts/expert teams/drafting teams.
- 8) The Propemperda Discussion Working Meeting to determine the division of discussions in the Session Period according to the regional priority scale and the finalization of the Propemperda list was marked by the signing of the Minutes of Joint Approval of the Head of the Legal Section of the Regional Secretariat and the Chairman of the DPRD Bapemperda.
- 9) Harmonization of Raperda:
- 10) Plenary Meeting for the Determination of Propemperda.

Ideally, all Raperda proposed in the Propemperda should have gone through the harmonization stage, but in reality the harmonization process is allowed before the submission of the Raperda in the relevant Session Period.

Article 35 of Law No. 12 of 2011 states that in the preparation of the Provincial Prolegda, the list of Provincial Regional Regulations is based on¹⁶ the orders of

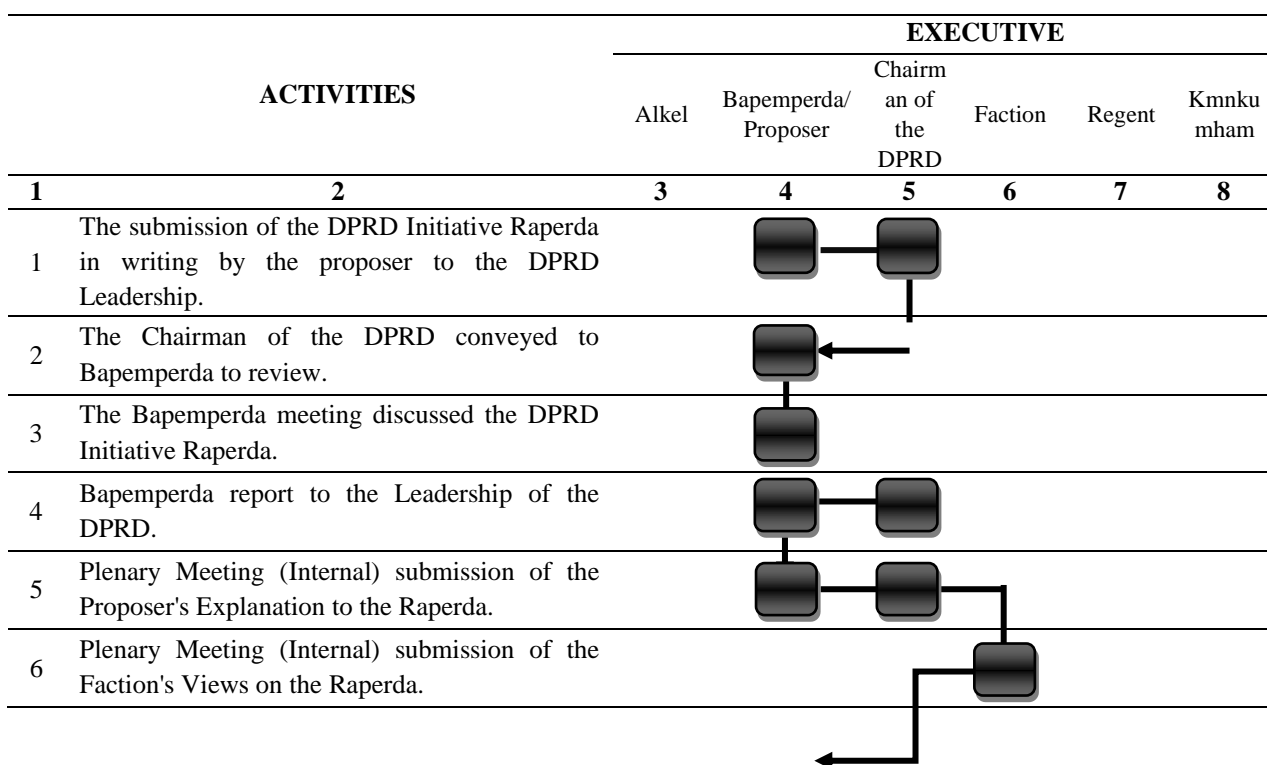
¹⁶ Article 35 of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations (LN No. 82, TLN No. 5234).

higher laws and regulations, regional development plans, the implementation of regional autonomy and assistance duties; and the aspirations of the local community.

The urgency of the proposed initiative of the DPRD Initiative Raperda to support the formation of regional legal products in Kebumen Regency is a form of manifestation of community participation, both in planning, mobilization and supervision.

Then in the movement, the thing that needs to be considered is to get professional human resources, have integrity and commitment to prepare the Raperda based on the Propemperda.

The formation of regional legal products refers to Law No. 12 of 2011 concerning the Formation of Laws and Regulations as amended several times recently by Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011 concerning the Establishment of Laws and Regulations and Permendagri No. 80 of 2015 concerning the Establishment of Regional Legal Products as amended by Permendagri No. 120 of 2018.



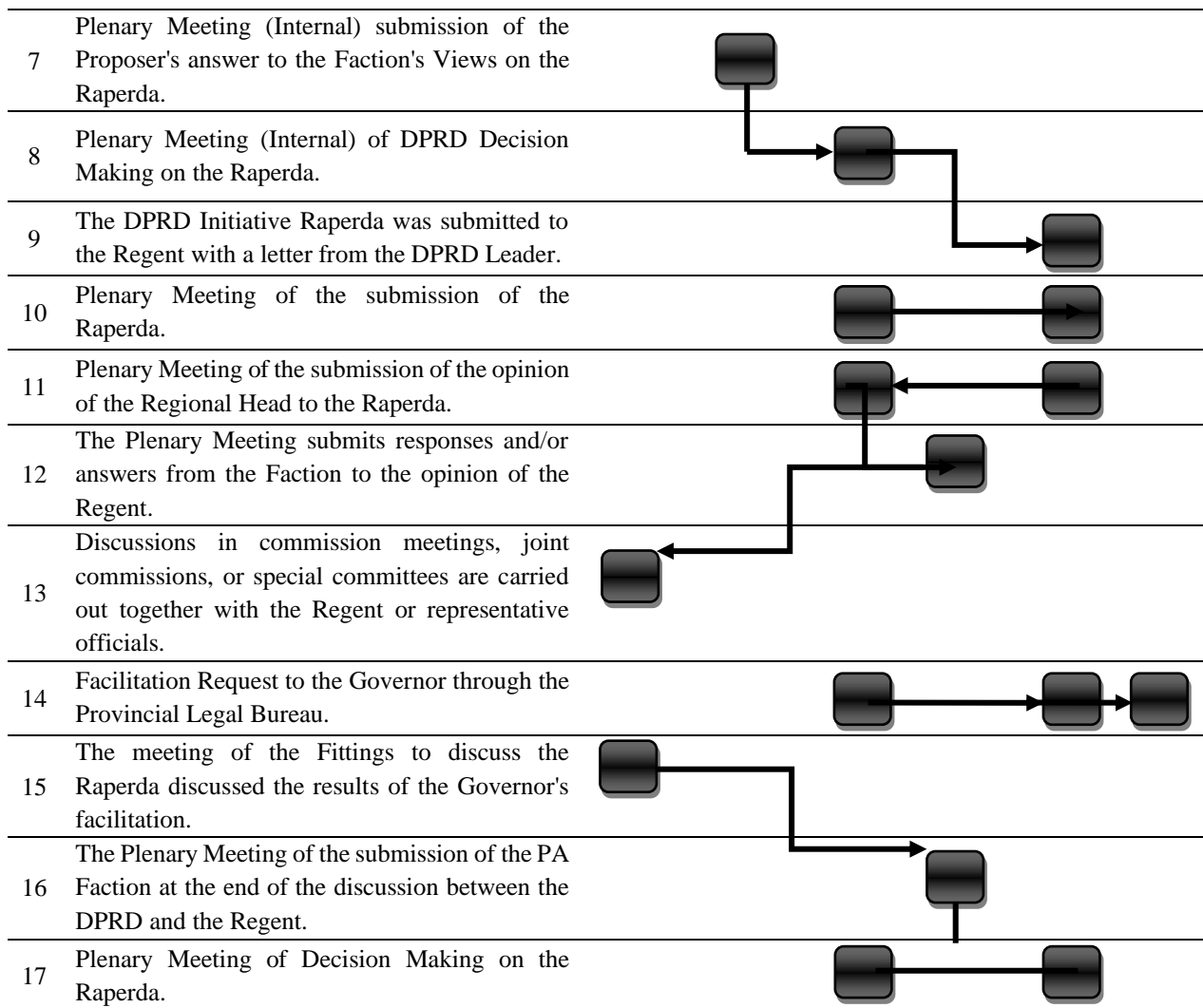


Chart 1. Mechanism for submitting proposals for the DPRD Initiative Raperda

Source: secondary data processed, 2023.

Obstacles to Submitting Proposals for the Initiative Raperda of the Kebumen Regency DPRD

Article 364 of Law No. 17 of 2014 states that "the Regency/City DPRD is a regional people's representative institution that is positioned as an element of the Regency/City Regional Government."¹⁷

¹⁷ Article 364 of Law Number 17 of 2014 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional House of

Regional Regulations are an integral part of the concept of Laws and Regulations.¹⁸ The DPRD as an element of the Regional Government organizer should focus on the preparation and discussion of the Raperda which is based on the collection of community aspirations and public interests to support the formation of regional legal products.

Article 91 of DPRD Regulation No. 1 of 2020 states that "The DPRD session year begins at the time of the pronouncement of the oath/promise of DPRD Members. The trial year is divided into 3 (three) trial periods. The Session Period is a span of 4 (four) months which is used for the implementation of session activities and recesses of the DPRD while the Session Period is the time of activities of DPRD members to carry out meetings held inside and outside the DPRD building".¹⁹ The division of the discussion of the Raperda for each Session Period is regulated in the DPRD Decree on Propemperda.

The Propemperda regulates the priority scale of the discussion of the Raperda during 1 (one) year of the Session which is divided into 3 (three) Session Periods. Raperda that was not completed in the previous year will be included in the DPRD Decree on the next year's Propemperda to be discussed at the beginning of the year, before the submission of the Raperda for the First Session Period.

The number of Kebumen Regency Regional Regulations for 2020-2023 listed in the Propemperda is as follows: Decree of the Chairman of the Kebumen Regency DPRD No. 172.1.1/24 of 2019 dated November 27, 2019 concerning the Kebumen Regency Propemperda of 2020, Decree of the Chairman of the Kebumen Regency DPRD No. 170/33 of 2021 dated November 12, 2021 concerning the Second Amendment of the Kebumen Regency Propemperda, Decree of the Kebumen Regency DPRD No. 170/14 of 2022 dated May 27, 2022 regarding the Amendment

Representatives (LN No. 182, TLN No. 5568) as amended several times recently by Law Number 13 of 2019 concerning the Third Amendment to Law Number 17 of 2014 (LN No. 181, TLN No. 6396).

¹⁸ Kurnia Mahendra Putra et al., 2007, *Guidelines for Academic Manuscripts of Participatory Regional Regulations*, Yogyakarta: Kreasi Total Media, p. 18.

¹⁹ Article 91 of the Regulation of the Regional House of Representatives of Kebumen Regency Number 1 of 2020 dated April 14, 2020 concerning the Rules of Conduct of the Regional House of Representatives of Kebumen Regency.

of the 2022 Kebumen Regency Propemperda, Kebumen Regency DPRD Decree No. 170/33 of 2022 dated November 25, 2022 concerning the 2023 Kebumen Regency Propemperda. Based on the data above, it can be formulated in the following table:

Table of the Number of Regional Regulations and Regional Regulations in 2020-2023

Year	Number of Propemperda	Number of Initiative Raperda	Number of Initiative Regional Regulations	Number of Executive Regional Regulations	Number of Executive Regulations
2020	20	7	0	13	14
2021	12	3	4	9	7
2022	18	5	3	13	10
2023	19	5	3	14	7

Source : secondary data processed, 2023

From the table above, it can be seen that in 2020 :P 7 Initiative Raperda were not discussed in 2020, 4 Initiative Raperda was set in 2021 and 1 Initiative Raperda was set in 2022, 1 Initiative Raperda is still in the process of verification by the Ministry of Finance and 1 Initiative Raperda can only be discussed when the Raperda which is in the process of verification by the Ministry of Finance is determined.

In 2021, there are 4 Initiative Raperda in 2020 determined, while 3 Initiative Raperda in 2021 have not been discussed. In 2022, there are 3 Initiative Raperda in 2021 determined, while 2 Initiative Raperda have not been discussed and included in the 2023 Propemperda. In 2023, there is information that of the 5 Initiative Raperda, there are 3 Raperda that have been discussed and determined during the First Session and 2 Initiative Raperda will be discussed in the III Session Period.

Based on the table above, it can be seen that the number of DPRD Initiative Raperda included in the Propemperda is not more than the number of Executive Raperda. Article 149 of Law No. 23 of 2014 states that "the Regency/City DPRD has the function of forming Regional Regulations, budgets and supervision".²⁰ Regarding the function of forming a Regional Regulation, the DPRD should play an optimal role in realizing the aspirations of the community through the Regional Regulation. It was found that there is still a lack of Regional Regulations sourced from the initiative of the DPRD, this shows that the effectiveness of the implementation of the DPRD's initiative rights in the formation of regional regulations has not been optimal.

The reason why the Executive submitted the proposal of the Regional Regulation was more than the proposal of the DPRD Initiative Regional Regulation²¹ was because the OPD submitted the proposal of the Regional Regulation because of urgent needs, the needs of the community that must be accommodated by the OPD, the existence of a routine Regional Expenditure Budget (APBD), consideration of prosperity for the community; and the technical implementation is in the Executive.

Although the number of Raperda proposed by the Regent is more, the quality of the Initiative and Executive Raperda is the same, because the formation of the Regional Regulation goes through the same discussion process and is carried out jointly by the Regent and the DPRD in a Special Committee work meeting.

Obstacles to Submitting Proposals for the DPRD Initiative Raperda are divided into internal factors and external factors²².

The internal factor is first, the legislative study carried out by Bapemperda cannot necessarily be used as a Proposal for the DPRD Initiative Raperda. The

²⁰ Article 149 of Law Number 23 of 2014 concerning Regional Government (LN No. 244, TLN No. 5587) as amended several times, most recently by Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (LN No. 41, TLN No. 6856).

²¹ Interview with Akhmad Harun, S.H., Head of the Legal Section of the Regional Secretariat of Kebumen Regency, September 1, 2023.

²² Interview with Bambang Tri Saktiono, S.Sos., and Mokh. Fatoni, S.H., Chairman of the Bapemperda of the Kebumen Regency DPRD and Functional Officer of the Drafting of Laws and Regulations of the DPRD Secretariat, September 1, 2023.

Legislative Study carried out by Bapemperda with a budget of Rp40,000,000,- is not necessarily continued in the formulation of the NA Raperda. For example, in 2022 the Legislative Review carried out by Bapemperda is as follows:

- a) Optimization of the Implementation of Village-Owned Enterprises Reviewed from the Regulatory Aspect
- b) Modernization of Waste Management
- c) Regulatory Review of Handling Stunting Issues
- d) Employment Protection and Placement
- e) Protection of Cultural Heritage
- f) Information and Communication Technology Implementation

Of the six studies, those formulated in the NA are Village-Owned Enterprises, Waste Management and Handling of Stunting Issues. Of the three NAs, those that were used as proposals for the DPRD Initiative Raperda were Village-Owned Enterprises and Handling the Stunting Issue.

Not all studies can be formulated in the NA Raperda and not all NA Raperda can be used as a proposal for the DPRD Initiative Raperda.

Second, the proposal of the Initiative Raperda is a right, not an obligation, so that not all DPRD Members want to propose the Initiative Raperda. There are not many DPRD Members who have the knowledge and experience to support the ability to prepare the Raperda and the lack of trainings obtained to improve the quality of members. Then seen from the existing facilities and infrastructure such as the lack of libraries and the lack of books and other materials have not fully supported the smooth running of the council's duties. In addition, there is a lack of attention from political parties in the matter of submitting an issue to be made into a Regional Regulation.

In the preparation of the Initiative Raperda, the DPRD must also involve the community, based on the interests of the community and prepared for the needs of the community. One form of fighting for the interests of the community is by involving community participation in the preparation of the Initiative Raperda, one of which is by holding a Public Hearing Meeting.

A democratic government is a government that provides space for the people to take part and participate in all forms of State problems (Huzaeni & Anwar, 2021).

Community participation in the formation of Regional Regulations is a form of good governance in accordance with the principles of *good governance*, including community involvement, accountability, and transparency.²³ In addition, with the participation of the community, the resulting Regional Regulation can reflect the social reality that applies in general in society.²⁴ The implementation of the Regional Regulation initiated by the DPRD must involve the community as well as be monitored by the community.

The above description shows the lack of ability of the DPRD in exercising the right to form a Regional Regulation whose implementation procedures include the submission of the Raperda, the discussion of the Raperda, and decision-making on the Raperda in the form of approval, approval with amendments, or rejection.

External factors are as follows: first, the number of Raperda proposals from the Executive so that too many Raperda will be included in the Propemperda. The Kebumen Regency DPRD consists of 50 Members and if divided into a Special Committee (Pansus) to Discuss the Raperda, 4 Special Committees will be formed each Session Period that will carry out the discussion of the Raperda. Each Special Committee is given the task of discussing the Raperda with the provisions that have been stipulated in the DPRD Decree on Propemperda. If in one Special Committee Session is given the task of discussing more than one Raperda, what happens is a breakdown of focus, even though in the discussion of one Raperda it is necessary to have a process that is not short.

Second The process of the Initiative Raperda journey is longer than the discussion of the Raperda from the Executive. The Initiative Raperda Proposal before being stipulated in the DPRD Decree on the DPRD Initiative Raperda Initiative Proposal must go through the study stage, both the internal study of the Bapemperda assisted by Experts/Expert Team, must also go through a joint study

²³ Mas Achmad Santosa, 2001, *Good Governance and Environmental Law*, Bandung: ICEL, p. 87.

²⁴ Jazim Hamidi, et al., 2011, *Legal Optics of Problematic Regional Regulations*, Jakarta: Prestasi Pustaka, p. 81.

between the Executive and the Legislature to be agreed upon in advance in the Propemperda.

The Initiative Raperda proposal submitted to the Chairman of the DPRD must be accompanied by NA and Raperda whose drafting process can be taken in a minimum of 3 months assisted by the Drafting Team from Academics. The NA preparation process must also go through various discussions in determining the Problem Inventory List and Strategic Issues, both internal discussions of the proposer and at the time of *Focus Group Discussion*. The Initiative Raperda proposal submitted to the Chairman of the DPRD is disposed of to Bapemperda for review and consideration.

Third The proposal of the Raperda from the Executive can be used as a proposal for the Initiative Raperda. Every year, the Legal Section inventories Regional Regulations that are no longer relevant and must be replaced, and also asks each OPD to submit proposals for the Executive Regional Regulation. The list of Raperda inventory is realized in the form of a Regional Regulation Needs Analysis (AKP) which is submitted to the Chairman of the DPRD and reviewed by Bapemperda. For the Raperda that is in accordance with the DPRD Fittings tupoksi, it can be used as a proposal for the Initiative Raperda.

In the process of forming a Regional Regulation that is in accordance with the authority and needs of the region, before the Regional Regulation is formed, it is necessary to conduct an analysis of the needs of the Regional Regulation.²⁵ Regional Regulation Needs Analysis (AKP) is a planning mechanism for the formation of Regional Regulation which includes the identification of needs and the analysis of needs in the context of the preparation of Propemperda in accordance with the authority, needs, conditions and capabilities of the region.

Fourth after the Harmonization Process of the Raperda, it was found that the proposed Initiative Raperda was not in line with the Regulation above. Regional Laws and Regulations are an inseparable part of the unity of the national legislative

²⁵ Directorate of Regional Legal Products, Ministry of Home Affairs, 2020, *Establishment of the Needs-Based DPRD Initiative Regional Regulation Program*, Bandung: Asdeksi, p. 3.

system. Therefore, there should be no regional level laws and regulations that are contrary to laws and regulations of a higher level or public interest.²⁶

The indicators that cause problematic Regional Regulations are that the formation of Regional Regulations is not based on a priority scale according to the development of the legal needs of the community, there is a disharmony between vertical and horizontal Regional Regulations with other regulations, the formation of Regional Regulations is not coordinated, directed, systematic, and integrated prepared by the DPRD and Regional Government, and is not preceded by Academic Papers (Hazdan & Sulistiyono, 2018).

In order for the Regional Regulation not to overlap with higher regulations, it is necessary to pay attention to aspects of authority, openness and supervision.

- a) The aspect of authority is expressly regulated in Article 1 Paragraph (1) of Law No. 12 of 2011 concerning the Establishment of Laws and Regulations which states that: "Laws and Regulations are written regulations formed by state institutions or authorized officials and are binding in general".
- b) The aspect of openness is needed so that various elements of society, academics, and practitioners can participate in the process of planning, preparing, drafting and discussing the Raperda by providing input or consideration orally or in writing in accordance with the provisions of laws and regulations;
- c) The aspect of supervision is in the form of preventive supervision of the Regional Regulation in the form of tiered evaluation and repressive supervision of the Regional Regulation to protect the public interest, harmonize and adjust the Regional Regulation with higher legislation.

Fifth, there is no DPRD Regulation that regulates the mechanism for drafting the DPRD Initiative Raperda. The preparation of the DPRD Initiative Raperda has not been specifically regulated and separately in the DPRD Regulation, currently the DPRD Regulation owned is:

²⁶ Bagir Manan, 1995, *Systems and Techniques for Making Regional Level Laws and Regulations*, Bandung: LPPM University Publishing Center, p.8.

- a) Kebumen Regency DPRD Regulation No. 1 of 2020 dated April 14, 2020 concerning the Rules of Conduct of the Kebumen Regency DPRD.
- b) Kebumen Regency DPRD Regulation No. 2 of 2020 dated April 14, 2020 concerning the Code of Ethics of the Kebumen Regency DPRD.
- c) Kebumen Regency DPRD Regulation No. 3 of 2020 dated April 14, 2020 concerning the Procedure of the Honorary Body of the Kebumen Regency DPRD.
- d) Kebumen Regency DPRD Regulation No. 4 of 2020 dated April 14, 2020 concerning Procedures for the Preparation of Regional Regulation Formation Programs within the DPRD.

In order to create a law that can protect the people, fair treatment, a law that protects every nation so that its rights are guaranteed, of course, there must be regulations that are used as guidelines in the preparation of laws and regulations, as the main rules that apply to prepare regulations from the initial process of its formation until the regulations are applied to the community (Sopiani & Mubaraq, 2020).

Efforts that should be made:

First, in determining the theme of Legislative Studies, Bapemperda needs to be assisted by a qualified Expert Team so that the resulting thinking can be formulated in the NA Raperda whose urgency is really needed for the development of Kebumen Regency.

Second Bapemperda as the main driver of the formation of local regulations in the Legislative Institution must have the spirit to maintain the dignity of the DPRD Institution, one of which is by contributing thoughts in the proposal of the Initiative Raperda. Moreover, the rights as the Formation of Regional Regulations are clearly regulated in the Laws and Regulations. It is necessary to hold Technical Guidance related to the Preparation of Regional Legal Products at least twice a year to increase the competence and capacity of the DPRD.

To overcome various obstacles to the lack of ability of DPRD members is to empower DPRD members from these weak positions. One of them is by improving

the quality or quality of the DPRD members themselves. Improving the abilities of council members through a series of structured efforts (Octavianus, 2022).

Third, the DPRD Initiative Raperda is prioritized in the priority scale for the preparation of Propemperda. Fourth, the long process of drafting the Initiative Raperda can be circumvented by preparing a plan in advance. The DPRD Fittings propose a theme that will be used as an Initiative Raperda in the DPRD's work plan so that it can be carried out at the beginning of the year, both the preparation of the Legislative Review and the preparation of the NA and the Raperda.

Fifth, does not rely on the proposal of the Executive Regional Regulation, because the DPRD has the right to form a Regional Regulation based on the aspirations of the community and prioritizing the public interest. If there is a similar proposal between the Executive and the Legislature, the priority is the Legislative proposal and the Executive Proposal as a comparison. This is in accordance with the provisions of Article 62 of Law No. 12 of 2011 which states that "if in one session the Provincial DPRD and the Governor submit the Provincial Regulation regarding the same material, what is discussed is the Provincial Regulation submitted by the Provincial DPRD and the Provincial Regulation submitted by the Governor is used as material to be compared".²⁷

Sixth, if the results of the harmonization state that the proposed Initiative Raperda is not in line with the regulations above, then Bapemperda and the Drafting Team will again hold a working meeting to formulate thoughts. Seventh, there is a need for The DPRD Regulation specifically regulates the Proposed Initiative of the DPRD Initiative Raperda.

Conclusion

Things that can be sought to increase the proposal of the Initiative Raperda to support the formation of regional legal products are that Bapemperda needs to be assisted by a qualified Expert Team, it is necessary to procure technical guidance

²⁷ Article 62 of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations (LN No. 82, TLN No. 5234) as amended several times recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Laws and Regulations (LN No. 143, TLN No. 6801).

related to the Preparation of Regional Legal Products at least twice a year, prioritize the proposal of the DPRD Initiative Raperda on the priority scale of the preparation of the Propemperda, propose the theme of the Initiative Raperda in the DPRD work plan, do not rely on the proposal of the Executive Raperda, if there is the same proposal between the Executive and the Legislature, then the Legislative and Executive proposals are prioritized as a comparison. If the proposed Initiative Raperda is not in accordance with the above regulations, a working meeting will be held again to formulate thoughts. There needs to be a DPRD Regulation that specifically regulates the Proposed Initiative of the DPRD Initiative Raperda.

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